

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2018 DEC -3 AM 11:16

CLERK

CIVIL CASE NO. 18-1

DEPUTY CLERK

5:18-cv-204

David "Cammie" Cameron,

Plaintiff,

v.

Lisa Menard,
Commissioner,
Vermont Department of Corrections,
Mark Potanas,
Former Superintendent,
Southern State Correctional Facility
Joshua Rutherford,
Chief of Security, Southern State Correctional Facility

Defendants.

COMPLAINT

NOW COMES the Plaintiff, David "Cammie" Cameron, by and through her attorney,
Theodore C. Kramer, of Kramer & Vangel, P.C., and complains against the Defendants, as follows:

THE PARTIES

1. Plaintiff David "Cammie" Cameron is a citizen of Vermont.
2. David "Cammie" Cameron is a transgender woman who has undergone hormone therapy. At all times relevant to this Complaint, David "Cammie" Cameron identified as female and was feminine in her appearance.
3. David "Cammie" Cameron is not currently incarcerated. At all times relevant to this Complaint, she was an inmate in the custody of the Vermont Department of Corrections.
4. Defendant Lisa Menard is the Commissioner of the Vermont Department of Corrections. At all times relevant to this Complaint, Ms. Menard was employed by the State of Vermont and acting under color of Vermont law within the scope of her employment at the Department of Corrections. She is responsible for the provision of

security, health, and medical services to persons entrusted into the care and custody of the Department of Corrections. She is sued in her individual capacity.

5. Defendant Mark Potanas is the former Superintendent of the Southern State Correctional Facility located in Springfield, Vermont. At all times relevant to this Complaint, Mr. Potanas was employed by the State of Vermont and acting under color of Vermont law within the scope of his employment at the Department of Corrections. He was responsible for the hiring, training, and supervising of the personnel working at the Southern State Correctional Facility. He is sued in his individual capacity.
6. Defendant Joshua Rutherford was Chief of Security while the Plaintiff was an inmate at the Southern State Correctional Facility, located in Springfield, Vermont. As such, he was responsible for insuring that inmates were not subjected to unreasonable risk of harm. He is sued in his individual capacity.

JURISDICTION AND VENUE

7. This action arises under 42 U.S.C. §1983 and Vermont common and statutory law.
8. This Court has jurisdiction over the parties and subject matter pursuant to 28 U.S.C. §1331 and §1367(a).
9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) (2) because the events or omissions giving rise to this action occurred in the State of Vermont.

STATEMENT OF FACTS

10. At all times relevant to this litigation, Plaintiff was in the custody and control of the Vermont Department of Corrections.
11. Plaintiff was identified by Department of Corrections officials during intake as a transgender female.
12. Plaintiff made a request to be lodged with female inmates, but that request was denied.

13. Defendants knew that Plaintiff was a transgender female but denied her request to be detained in a female facility.
14. Despite the known and substantial risks of doing so, Defendants placed the Plaintiff with male inmates in a male facility, despite having a duty to protect Plaintiff from unreasonable risk of harm while incarcerated.
15. Plaintiff was ridiculed, threatened and harassed by male inmates and correctional officers throughout her stay at Southern State Correctional Facility by:
 - a. being called, "David," instead of her requested name, "Cammie;,"
 - b. being subjected to constant sexual harassment, comments, demands, and threats by male inmates in the presence of Department of Corrections officers including Defendants Potanas and Rutherford.
16. Despite being aware of the threat inmate Francis Lajoice presented to the Plaintiff, Defendants Potanas and Rutherford placed Lajoice in the cell immediately adjacent to the Plaintiff.
17. On December 21, 2015 at approximately 10:00 a.m., inmate Francis Lajoice attacked Plaintiff David "Cammie" Cameron. In the aftermath of the attack, Cameron was found lying on the ground with "blood pouring from her nose and mouth," her "right eye was swollen shut and purple," and she "had several bumps and bruises on her forehead and temple areas."
18. Plaintiff suffered multiple contusions to her forehead, right eye, cheek and jaw, a fractured nose, major closed head injury, left cerebral hemorrhage, left subdural hematoma and concussion, all requiring hospitalization.

STATEMENT OF CLAIMS

FIRST CAUSE OF ACTION:
FAILURE TO PROTECT IN VIOLATION OF 42 U.S.C. § 1983 AND THE EIGHTH
AMENDMENT TO THE U.S. CONSTITUTION AGAINST ALL DEFENDANTS

19. Plaintiff re-alleges paragraphs 1-18 of this complaint and further states that:
20. Defendants knew that conditions in the Southern State Correctional Facility constituted a substantial risk of serious harm to Plaintiff's health and safety and they violated Plaintiff's clearly established Eighth Amendment right to reasonable safety and humane conditions of confinement.
21. Defendants chose not to respond to the conditions in the Southern State Correctional Facility that constituted a substantial risk to Plaintiff's health and safety, despite knowing those substantial risks.
22. Defendants chose not to respond to the conditions in the Southern State Correctional Facility constituting a substantial risk to Plaintiff's health and safety by conduct including but not limited to: a) failing to classify inmates according to a proper classification system; b) failing to enforce the classification system; c) failing to house inmates according to gender identity; d) failing to have a staffing plan that provided adequate supervision over inmates; e) failing to train deputies in the Southern State Correctional Facility, which caused conditions constituting a substantial risk to Plaintiff's health and safety; and f) failing to supervise deputies in the Southern State Correctional Facility, which caused conditions constituting a substantial risk to Plaintiff's health and safety.
23. Defendants' failure to respond to the conditions in the Southern State Correctional Facility was an objectively unreasonable response to a known, substantial risk.
24. Defendants failed to respond to the conditions in the Southern State Correctional Facility which constituted a substantial risk to Plaintiff's health and safety ultimately causing Plaintiff severe injury.
25. Defendants acted with deliberate indifference toward a substantial risk to Plaintiff's

health and safety.

As a result of the severe beating inflicted upon the Plaintiff on December 21, 2015, Plaintiff suffered physical injury, pain and mental anguish, emotional distress, and expenses for medical care.

WHEREFORE, Plaintiff, David “Cammie” Cameron, demands judgement against the Defendants, Lisa Menard, Mark Potanas, and Joshua Rutherford, jointly and severally, in their individual capacities, for compensatory and punitive damages in a sum in excess of \$350,000.00 and for attorneys’ fees and costs pursuant to 42 U.S.A. §1988.

SECOND CAUSE OF ACTION:
FAILURE TO PROPERLY TRAIN IN VIOLATION OF 42 U.S.C. § 1983 AND THE
EIGHTH AMENDMENT TO THE U.S. CONSTITUTION

26. Plaintiff re-alleges paragraphs 1-18 of this complaint and further states that:
27. Defendant Menard as Commissioner of the Vermont Department of Corrections, and Defendant Potanas, as Superintendent of the Southern State Correctional Facility and Defendant Rutherford, Chief of Security, were the policymakers for the Department of Corrections and the Southern State Correctional Facility.
28. As policymakers, Defendants Menard, Potanas, and Rutherford were responsible for the training of deputies serving in the Department of Corrections and the Southern State Correctional Facility.
29. Defendants Menard, Potanas, and Rutherford failed to adequately train the Southern State Correctional Facility deputies, which caused unconstitutional conditions constituting a substantial risk to the health and safety of the Southern State Correctional Facility inmates, including Plaintiff.
30. Defendants Menard, Potanas, and Rutherford were on notice that their failure to provide adequate training to the Southern State Correctional Facility deputies caused unconstitutional conditions constituting a substantial risk to the health and safety of the Southern State Correctional Facility inmates, including Plaintiff.

31. Defendants Menard, Potanas, and Rutherford's deliberate indifference to the need for adequate training was an official policy giving rise to official capacity liability.
32. The official policy of inadequate training of the Southern State Correctional Facility deputies caused the violation of Plaintiff's clearly established Eighth Amendment protection from cruel and unusual punishment.

As a result of the severe beating inflicted upon the Plaintiff on December 21, 2015, Plaintiff suffered physical injury, pain and mental anguish, emotional distress, and expenses for medical care.

WHEREFORE, Plaintiff, David "Cammie" Cameron, demands judgement against the Defendants, Lisa Menard, Mark Potanas, and Joshua Rutherford, jointly and severally, in their individual capacities, for compensatory and punitive damages in a sum in excess of \$350,000.00 and for attorneys' fees and costs pursuant to 42 U.S.A. §1988.

THIRD CAUSE OF ACTION:

FAILURE TO SUPERVISE IN VIOLATION OF 42 U.S.C. § 1983 AND THE
EIGHTH AMENDMENT TO THE U.S. CONSTITUTION

33. Plaintiff re-alleges paragraphs 1-18 of this complaint and further states that:
34. Defendant Menard as Commissioner of the Vermont Department of Corrections, Defendant Potanas, as Superintendent of the Southern State Correctional Facility, and Defendant Rutherford, as Chief of Security of the Southern State Correctional Facility were the policymakers for the Department of Corrections and the Southern State Correctional Facility.
35. As policymakers, Defendants Menard, Potanas, and Rutherford were responsible for the supervision of deputies serving in the Department of Corrections and the Southern State Correctional Facility.
36. Defendants Menard, Potanas, and Rutherford failed to adequately supervise the Southern State Correctional Facility deputies, which caused unconstitutional conditions constituting a substantial risk to the health and safety of the Southern State Correctional Facility inmates, including Plaintiff.

37. Defendants Menard, Potanas, and Rutherford were on notice that their failure to provide adequate supervision to the Southern State Correctional Facility deputies caused unconstitutional conditions.
38. Defendants Menard, Potanas, and Rutherford's deliberate indifference to the need for adequate supervision was an official policy giving rise to official capacity liability.
39. The official policy of inadequate supervision of the Southern State Correctional Facility deputies caused the violation of Plaintiff's clearly established Eighth Amendment protection from cruel and unusual punishment.

As a result of the severe beating inflicted upon the Plaintiff on December 21, 2015, Plaintiff suffered physical injury, pain and mental anguish, emotional distress, and expenses for medical care.

WHEREFORE, Plaintiff, David "Cammie" Cameron, demands judgement against the Defendants, Lisa Menard, Mark Potanas, and Joshua Rutherford, jointly and severally, in their individual capacities, for compensatory and punitive damages in a sum in excess of \$350,000.00 and for attorneys' fees and costs pursuant to 42 U.S.A. §1988.

FOURTH CAUSE OF ACTION:
NEGLIGENCE

40. Plaintiff re-alleges paragraphs 1-18 of this complaint and further states that:
41. Defendants had a duty to protect the Plaintiff from unreasonable risk of harm during her incarceration.
42. Defendants' actions were a breach of the applicable standards of care requiring the placement of transgender females with other females, requiring that Plaintiff not be subjected to a known risk of harm, and the Defendants' breach proximately caused Plaintiff's injuries.

As a result of the severe beating inflicted upon the Plaintiff on December 21, 2015, Plaintiff suffered physical injury, pain and mental anguish, emotional distress, and

expenses for medical care.

WHEREFORE, Plaintiff, David “Cammie” Cameron, demands judgement against the Defendants, Lisa Menard, Mark Potanas, and Joshua Rutherford, jointly and severally, in their individual capacities, for compensatory and punitive damages in a sum in excess of \$350,000.00 and for attorneys’ fees and costs pursuant to 42 U.S.A. §1988.

FIFTH CAUSE OF ACTION:
FALSE IMPRISONMENT

- 43. Plaintiff re-alleges paragraphs 1-18 and further states that:
- 44. After suffering a severe beating at the hands of Inmate Lajoice, the Plaintiff was disciplined and her period of incarceration was extended beyond her minimum.
- 45. While serving her additional time, Plaintiff’s mother passed away.
- 46. Because of her unlawful confinement, Plaintiff was unable to see her mother prior to her death and was unable to attend her funeral.
- 47. Defendants’ intentional decision to wrongfully detain the Plaintiff resulted in the nonconsensual detention of the Plaintiff.
- 48. This caused the Plaintiff great mental and emotional anguish.

WHEREFORE, Plaintiff, David “Cammie” Cameron, demands judgement against the Defendants, Lisa Menard, Mark Potanas, and Joshua Rutherford, jointly and severally, in their individual capacities, for compensatory and punitive damages in a sum in excess of \$350,000.00 and for attorneys’ fees and costs pursuant to 42 U.S.A. §1988.

PRAYER FOR RELIEF

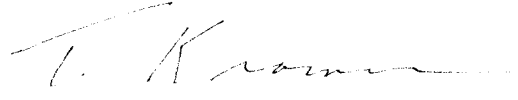
WHEREFORE, Plaintiff respectfully requests that this Court:

1. Award Plaintiff compensatory damages to be determined at trial;
2. Award Plaintiff punitive damages in an amount to be determined at trial;
3. Grant Plaintiff an award of attorney fees and other litigation costs reasonably incurred in this action;
4. Grant Plaintiff such other and further relief that this Court deems proper.

Dated at Brattleboro, Vermont this 29th day of November, 2018.

Respectfully submitted,
DAVID "CAMMIE" CAMERON

By:



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